

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13066 of Don Dailey, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.4 and Paragraph 7107.22) to construct a three story and basement addition to an apartment house which is a non-conforming structure and does not share a common division wall in an R-5-B District at the premises 2149 California Street, N.W., (Square 2528, Lot 872).

HEARING DATE: October 17, 1979
DECISION DATE: November 7, 1979

FINDINGS OF FACT:

1. The subject property is located on the north side of California Street between Connecticut Ave. to the east and Phelps Place to the west. It is known as 2149 California St. and is in an R-5-B District.

2. The subject site is improved with a three-story with basement brick apartment house. The improvement is presently vacant except for one tenant. It was built about 1910 and was occupied previously as a twelve unit apartment house. There are fire escapes attached to the building which the applicant proposes to remove in the renovation.

3. To the north of the subject property is a fifteen foot wide public alley followed by the rear yards and parking areas of semi-detached dwellings and the Embassy of Barbados in the R-3 District. To the east is a four story and eight story apartment house in the R-5-B District. To the south is California Street, followed by the eight story Envoy Apartment House and a grocery store in the R-5-B District. To the south-west is a Macken High School in the R-5-B District and to the west is a five story apartment house in the R-5-B District.

4. The subject building is a non-conforming structure since it provides no side yard for the freestanding wall on its western frontage and does not share a common division wall on that frontage.

5. The applicant proposes to build a three story and basement addition to the existing building which would be divided into four units and to renovate the existing building into six units for a total of ten units for the entire property.

6. Sub-section 3305.4 of the Zoning Regulations states that in an R-5-B District when a multiple dwelling is erected which does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each resulting free standing side.

7. Paragraph 7107.22 of the Zoning Regulations states that enlargements or additions may be made to a nonconforming structure devoted to a conforming use provided that all yard and court requirements adjacent to such enlargement or addition are complied with.

8. The subject development proposal conforms with the lot occupancy, rear yard, open court and off-street parking regulations for the R-5-B District.

9. The applicant is requesting a variance from the side yard requirements of the Zoning Regulations.

10. The west wall of the subject building is built face on line. The applicant proposes to continue that face on line wall to the rear approximately thirty-seven feet. The applicant would also build face line on the east side of the property. There would be a rear yard of approximately twenty-eight feet. The addition in depth, will approximate the depth of the abutting apartment house at 2151 California Street, N.W.

11. The subject property tapers from a width of 39.45 feet at the street frontage to 30.10 feet at the rear alley. An addition at the back of the property which provided the required 9.04 side side yards would be approximately fifteen feet wide and forty-three feet deep.

12. The north side of the 2100 block of California Street, N.W. has a twenty-five foot building restriction line. Due to this restriction and the unusual size and shape of the lot, it is impossible to achieve the sixty percent allowable lot occupancy and at the same time provide the required 9.04 foot side yards at the addition. Without the requested variance, lot occupancy would be limited to forty-three percent. Further an addition with side yards at both east and west property lines would be of such odd proportions that it would be impossible to make floor layouts for its intended use.

13. The subject property is the smallest lot on the north side of the 2100 block of California St. The height of the existing and proposed structure is less than any other improvement on the subject block.

14. The Office of Planning and Development by report dated October 10, 1979 recommended that the application be approved. It reported that the subject premises became non-conforming when the revised Zoning Regulations were adopted on May 12, 1958. The OPD was of the opinion that compliance with the side yard requirements given the lot's exceptional narrowness, and a nine foot difference in street and alley lot width dimensions would create a practical difficulty for the applicant in developing the site. The compliance with said regulations would substantially limit the feasibility of building an addition to this already existing structure. Without the variance relief, much smaller and not as desirable living units could be built. The resulting addition would have interior circulation problems involving stair and hallway placement due to the narrow lot size. The OPD believed that the impact on light and air will be minimal. In conclusion the OPD was of the opinion that the area variance request can be granted without substantial detriment to the public good and without impairing the intent, purpose, and integrity of the Zoning Regulations and Map. The Board so finds.

15. ANC-1D by letter of October 15, 1979 opposed the application. It stated as follows:

" ANC-1D cannot support the above application due to the opposition expressed by three residents of 2151 California Street which abuts the building concerned. In addition two residents of nearby buildings expressed opposition because of the excessive building activity already going on in the area which makes it impossible to walk on either sidewalk of the 2100 block of California Street.

Mss Montecino, Burt and Knowles, who all live on the third floor of 2151 California Street, feel that their light and air will be cut off by the proposed addition to 2149."

16. The Board is required by statute to give great weight to the issues and concerns of the ANC. The issue of street obstruction is not germane to the subject side yard variance before the Board. The remonstrants can advise the proper city officials to have the obstructions removed. As to the issue of light and air raised by the tenants in the abutting apartment house, the Board finds that those tenants have no right to a view across the adjoining property. Furthermore, aside from the statement of the ANC, there is no evidence in the record to support the proposition that there will be any adverse effect on light or air.
17. No party appeared at the public hearing in support of or in opposition to the present application. One abutting property owner appeared at the hearing to inquire as to how the proposed building addition would affect her existing multiple dwelling building during the period of the proposed construction. There were two letters on file in opposition to the application. One was based on parking impact. No grounds were stated in the second letter. The Board finds that the applicant is providing three parking spaces in the rear of the property which is exactly what the Zoning Regulations require.

CONCLUSIONS OF LAW:

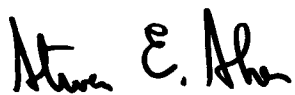
Based on the record the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing of a practical difficulty that stems from the property itself. The subject site is presently improved with a non-conforming structure. The proposed addition is part of an overall plan by the applicant to renovate the existing structure into a modern apartment building, with ten units. Due to the exceptional shape of the lot and the twenty-five foot building restriction line on the north side of the 2100 block of California Street, it is impossible for the applicant to construct the proposed addition in conformity with the side yard requirements

for the R-5-B District, and still attain the sixty percent allowable lot occupancy. To deny the requested relief would result in peculiar and exceptional practical difficulties upon the applicant in restricting the development potential of the property and forcing any proposed building addition to be of an exceptionally narrow width. In view of these facts and the nature of surrounding uses the Board concludes that the requested variance can be granted without detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations. According, it is ORDERED that the application is GRANTED subject to the condition that all fire escapes on the California Street side shall be removed.

VOTE: 4-0 (Leonard L. McCants, Charles Norris, Walter B. Lewis and William F. McIntosh to grant, Chloethiel Woodard Smith not present, not voting).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 11 FEB 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.